


PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number: 12406-095002
	Application Number 10/605,981	Filed November 11, 2003
	First Named Inventor Klausmann et al.	
	Art Unit 1745	Examiner Jane J. Rhee
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a Notice of Appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record <u>54,563</u> (Reg. No.)</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below'.</p>		
		<p> Signature</p> <p>_____ Jennifer A. Zanicco Typed or printed name</p> <p>_____ (650) 839-5070 Telephone number</p> <p>_____ June 25, 2007 Date</p>
<input checked="" type="checkbox"/> Total of 1 form is submitted.		

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Klausmann et al.	Art Unit	: 1745
Serial No.	: 10/605,981	Examiner	: Jane J. Rhee
Filed	: November 11, 2003	Conf. No.	: 2980
Title	: OLED DEVICES WITH IMPROVED ENCAPSULATION		

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Commissioner for Patents

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

This brief is filed in response to deficiencies in the Final Office Action mailed February 23, 2007. Panel review is requested to review the omission of teachings required to establish a *prima facie* rejection.

Claims 1-12 and 14-42 are pending. Claims 1, 20 and 33 are independent claims. The claims are rejected over U.S. Patent No. 6,887,733 in view of U.S. Publication No. 2003/0197197 ("Brown") for double patenting reasons. Applicant requests that the double patenting rejection be held in abeyance until the claims are allowed. Claims 1-12, 14-31 and 33 are rejected as anticipated by or obvious over Brown. Claim 32 is rejected as obvious over Brown in view of applicant's admitted prior art. Claims 34-39 were rejected over Brown in view of U.S. Patent No. 6,693,296 ("Tyan"). The basis for the rejection of claims 40-42 was not provided.

I. Brown does not teach or suggest a metal layer disposed on an active component and being in direct contact with an upper electrode of the active component wherein the metal layer consists essentially of an alkaline earth metal, aluminum, tantalum or zirconium

Claim 1 is directed to a device including an active component with metal layer disposed on the active component and being in direct contact with an upper electrode of the active component wherein the metal layer consists essentially of an alkaline earth metal, aluminum, tantalum or zirconium and is capable of absorbing water and oxygen.

Brown describes an adhesive layer 130 formed of a pressure sensitive adhesive, such as an acrylic polymer adhesive (paragraph 58). Getter material, such as calcium or barium metal, can be in the adhesive (paragraph 73).

Applicant respectfully directs the panel's attention to pages 9-11 of the response filed on August 8, 2006, where Brown is addressed, along with the comments presented below.

Brown fails to teach or suggest a metal layer that is in direct contact with an upper electrode, much less a metal layer that consists essentially of an alkaline earth metal, aluminum, tantalum or zirconium and is directly on an upper electrode. Applicant understands that the Examiner is entitled to give each claim its broadest reasonable interpretation consistent with the specification. However, the claims can only be interpreted as broadly as *their terms* reasonably allow (MPEP 2111.01 I, emphasis added). This means that the words of the claim must be given at least their plain meaning. Applicant submits that the plain meaning of the term *metal layer*, even using the broadest reasonable interpretation of the term, this would not read on a polymer adhesive layer. Moreover, a person of ordinary skill in the art would not interpret a metal layer so broadly as to include a layer including metal. Even when the polymer adhesive layer has metal material mixed in, as described by Brown, the resulting composition is not a metal layer. Therefore, the broadest reasonable interpretation of *a metal layer* does not read on layer 130 of Brown.

Moreover, the phrase "consists essentially of" does not expand the scope of the limitation to read on Brown's polymer adhesive layer. Claim 1 reads "wherein the metal layer consists essentially of". The phrase "consists essentially of" has a scope that is between "consists of" and "comprises". Although the phrase "consists essentially of" is intended to read on a metal layer that includes some measure of impurities, it does not broaden the scope of the limitation so that the claim reads on a layer formed primarily of a non-metal layer, i.e., a pressure sensitive adhesive, with some metal material in the adhesive.

The Examiner argues that Brown's polymer adhesive layer with getter material therein anticipates applicant's claims. Specially, the Examiner has relied on Brown's teaching of incorporating a getter into an OLED structure by forming an adhesive layer 130 that has getter

material in the layer (see *Response to Arguments* pages 2-3 of the Office Action mailed February 23, 2007). The Examiner argues that "Brown teaches a getter layer in direct contact with an upper electrode of an active component (figure 4 number 130) where the getter layer consist [*sic*] essentially of an alkaline earth metal (page 5 paragraph 0071). The getter layer mixed with an adhesive does read on 'consist of [*sic*] essentially of', 'consist essentially of' can comprise other elements as long as it does not affect the properties of [*sic*] primary element". As applied to the applicant's claims, the Examiner further argues that "the adhesive layer does not destroy the function of the getter layer" (Office Action, page 3).

Case law indeed instructs that the phrase "consisting essentially of" does not exclude the addition of another ingredient which does not materially affect the characteristics of the invention (Water Technologies Corp. v. Calco, Ltd., 850 F.2d 660, 666 (Fed. Cir. 1988)). The applicant submits that the adhesive layer *does* materially affect the characteristics of the metal. A pressure sensitive adhesive with getter material therein would not provide the same gettering properties as a metal layer formed of a metal that is capable of absorbing water and oxygen. An equal volume of getter-containing polymer adhesive would have less ability to absorb water and oxygen than an equal volume of the getter metal. Additionally, in order for the adhesive to retain sufficient adherent properties to "provide[] good adhesion between adjacent layers" and so that the getter material would not interfere with the adhesive properties of the layer, the getter material would be dispersed in small particles within the adhesive (paragraph 57). Thus, the getter in the adhesive material would not form a metal *layer*. Further, calcium or barium metal in a polymer adhesive layer would only be able to react with water or oxygen *after* the water and oxygen penetrates the adhesive layer and reaches the metal in the polymer adhesive layer. Conversely, the claimed metal layer can have a continuous surface that is able to absorb oxygen and water on contact.

Thus, there is no anticipation and no motivation or reason provided by the Examiner to modify Brown to meet the limitations of claim 1 as pending.

Claim 20 is directed to an organic electroluminescent device with a metal layer disposed on an OLED cell, wherein the metal layer consists essentially of an alkaline earth metal,

aluminum, tantalum or zirconium and is capable of absorbing water and oxygen. Claim 33 is directed to a device with a metal layer in direct contact with an active component, wherein the metal layer consists essentially of an alkaline earth metal, aluminum, tantalum or zirconium and is capable of absorbing water and oxygen. Applicant submits that similar reasoning applies to claims 20 and 33 as provided above with respect to claim 1. Because claims 1, 20 and 33 are the only independent claims, similar reasons for lack of a *prima facie* case of anticipation or obviousness are therefore pending for all of pending claims.

II. Brown fails to teach or suggest a protective layer on the substrate to prevent shorting of the conductive lines on a substrate that provide electrical access to a device

Claim 1 requires conducting lines on a substrate to provide electrical access to a device and a protective layer on the substrate to prevent shorting of the conducting lines. Claim 20 requires conducting lines in a bonding region of a substrate to provide electrical access to an OLED cell and a protective layer located in the bonding region on the substrate to provide electrical access to the OLED cell.

Brown describes using semiconductors, such as silicon, for the substrate layer 110 and barrier layer 120 (paragraphs 50 and 52). Electronic circuitry can be built on the semiconductor material. Brown also describes the OLED region 116 as comprising pixels each including an anode layer and a cathode layer. In some embodiments, a protective layer 126 is provided between the adhesive layer 130 and the OLED region 116 (paragraph 66). The protective layer 126 can be used when the adhesive layer 130 contains particulate materials that would harm the OLED region 116.

However, Brown does not describe forming conducting lines to provide electrical access to the device and therefore does not describe a protective layer on the substrate to prevent shorting of the conducting lines. As noted on page 10 of the response to the Office Action of February 6, 2006, Brown only suggests using the protective layer 126 to protect the OLED region 116 from damage or harm. Brown does not suggest forming conducting lines that provide

electrical access to the device, must less a protective layer to prevent shorting of the conducting lines.

III. Applicant's admitted prior art and Tyan do not teach or suggest a metal layer disposed on an active component and being in direct contact with an upper electrode of the active component wherein the metal layer consists essentially of an alkaline earth metal, aluminum, tantalum or zirconium

Applicant's admitted prior art does not provide the elements not taught by Brown. Therefore, no *prima facie* case of obviousness has been made for claim 32 or claims 34-39.

IV. No reasons for rejecting claims 40-42 have been provided


Applicant notes that although the Office Action Summary indicates that claims 40-42 are rejected, the Examiner has provided no basis for rejecting these three claims. Applicant submits that the office action is therefore incomplete.

VI. Conclusion

For at least the reasons provided in this request for review, applicant submits that the outstanding office action mailed February 23, 2007, does not present a *prima facie* case of anticipation or obvious of the pending claims.

Respectfully submitted,

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